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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,939	03/21/2002	Robert W Gilbert	BRI - 00064	4760
7590 04/19/2005			EXAMINER	
Philip R Warn Warn Burgess & Hoffmann, P.C. PO Box 70098 Rochester Hills, MI 48307			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/088,939

Applicant(s)

GILBERT, ROBERT W

Examiner

Joshua L. Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to Request for Continued Examination filed February 14, 2005 and Amendment filed December 9, 2004. All applicant's arguments have been considered.

#### ***Response to Amendment***

The examiner noticed that a supplemental Amendment was filed on April 11, 2005, after the completion of the initial copy of this Office action. This Amendment is disapproved. 37 CFR 1.115 states

A preliminary amendment may be disapproved if the preliminary amendment unduly interferes with the preparation of a first Office action in an application. Factors that will be considered in disapproving a preliminary amendment include:

- (i) The state of a first Office action as of the date of receipt of the preliminary amendment and
- (ii) The nature of any changes to the specification or claims that would result from entry of the preliminary amendment.

The Amendment was filed after the completion of the initial copy of this Office action and the Amendment includes amendments to the claims, which would require additional searching.

The 37 CFR 1.115 further states, "The time periods specified in paragraph (b)(2) of this section are not extendable." The pertinent section of paragraph (b)(2) is, "(ii) The filing date of a continued prosecution application."

***Claim Rejections - 35 USC § 103***

Art Unit: 2872

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-12, 15-21 and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newdigate (US 3,712,703) in view of Menzies (US 4,136,925).

Regarding claims 1, 12 and 21, Newdigate teaches a vehicle mirror assembly comprising a mirror frame (46); a rotor (22 and 24) rotatably mounted with respect to the mirror frame (col. 2 lines 15-18); a member for rotating (28 and 70) the rotor with respect to the mirror frame (col. 2 lines 26-34 and col. 3 lines 4-11); a connecting member (12) operably interposed between the rotor and mirror frame allowing pivoting of the rotor with respect to the mirror frame (col. 2 lines 35-43); and a mirror (26) having a reflective surface (col. 2 lines 18-20) mounted with respect to the rotor so that the surface remains substantially parallel to the plane in which the rotor rotates (Fig. 1; 24 and 26) are substantially normal to the rotational axis of the rotor (Fig. 1; 26 and 22). Newdigate lacks the rotor stabilizes the mirror against vibrational movement. Menzies teaches a vehicle mirror assembly with a rotor (Fig. 2) and a mirror (39), wherein the rotor stabilizes the mirror against tilting vibrational movement (abstract; col. 3 lines 9-32). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Newdigate rotor include the vibration prevention means as taught by Menzies for the purpose of improving the clarity of the reflected image (Menzies col. 1 lines 28-56).

Art Unit: 2872

Regarding claims 2, 12 and 21, Newdigate teaches the connection member is arranged and constructed such that the angle of the mirror surface, with respect to the mirror frame, can be adjusted (col. 2 lines 35-43).

Regarding claims 3, 12 and 21, Newdigate teaches a support portion (17 and 18) interposed between the mirror frame and the rotor, the support portion supporting the rotor.

Regarding claims 6, 15 and 24, Newdigate teaches the rotor is substantially disc-shaped flywheel (24).

Regarding claims 7, 16 and 25, Newdigate teaches the flywheel has a diameter of at least two thirds of the smallest bisector of the mirror surface (24 and 26).

Regarding claims 8, 17 and 26, Newdigate teaches the member for rotating the rotor is air driven (col. 2 lines 26-34).

Regarding claims 9, 18 and 27, Newdigate teaches the member for rotating comprises vanes (34) mounted to the rotor and an air passage (36) arranged and constructed so as to direct air through the vanes (42).

Regarding claims 10, 19 and 28, Newdigate teaches the member for rotating the rotor comprises an electric motor (70).

Regarding claims 11, 20 and 29, Newdigate teaches the mirror frame comprises a case (46) substantially encapsulating the support portion, rotor and mirror from behind the mirror surface.

Regarding claims 12 and 21, Newdigate teaches a support arm (58) having a proximal and distal end, the distal end for attaching to a vehicle and the mirror frame mounted on or integral with the proximal end of the support arm (col. 2 lines 44-49).

Regarding claim 21, Newdigate teaches the mirror is mounted directly to or integral with the rotor (24 and 26).

Regarding claim 30, Newdigate teaches the invention as claimed but lacks reference to the use of an eccentrically mounted rotor. It is extremely well known in the art to have an eccentrically mounted rotor. Official Notice is taken. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the rotor of Newdigate eccentrically mounted as is known in the art for the purpose of easier manufacturing by reducing centering tolerances.

Claims 4, 5, 13, 14, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newdigate in view of Menzies as applied to claims 1, 12 and 21 above, and further in view of Hayashi (US 4,540,252).

Newdigate teaches the connection member comprising a pivot mounting (12, 46, 50 and 52) interposed between the mirror frame and the support portion, but lack reference to at least two legs and a damping member. Menzies teaches a vibration absorber the comprises a spring member (58) and a damper member (60) operable in parallel (col. 3 lines 53-57). Hayashi teaches a vehicle mirror assembly with a connection member (Fig. 2) that comprises a pivoting mounting (103a) interposed between the mirror frame (1) and the support portion (110); and at least two legs (116 and 117) operably interposed between the mirror frame and the support portion, each leg comprising an actuator (106 and 107) for adjusting the no-load length of the leg and a vibration absorber (120 and 121) connected in series to the actuator, wherein the actuator enables adjustment of the timed-averaged orientation of the mirror with respect to the mirror

Art Unit: 2872

frame (col. 4 lines 27-42) and the vibration absorbers reduce the transmission of vibration forces from the mirror frame to the support portion (col. 3 lines 5-8). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Newdigate invention include the damping member of Menzies for the purpose of damping the vibrational forces (Menzies col. 3 lines 53-57). It would further have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Newdigate invention include the legs as taught by Hayashi for the purpose of automating the adjustment of the mirror angle.

### *Response to Arguments*

Applicant's arguments filed December 9, 2004 have been fully considered but they are not persuasive.

The applicant argues on page 3 that the Menzies reference fails to teach prevention of "tilting vibrational movement." The applicant agrees that the Menzies references teaches a flexible drive that stabilizes the mirror against vibration. The examiner believes that if there is no vibration as admitted by the applicant there can be no movement due to vibration and therefore the Menzies references teaches the prevention of "tilting vibration movement."

On page 4 the applicant argues that to modify the Newdigate or Menzies references to not allow the mirror to rotate would destroy the reference. The examiner believes that in the broadest reasonable interpretation of the claim limitation, "the surface remain substantially parallel to the plane in which the rotor rotates," allows for some tilting of the mirror surface.


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP *RP*

  
**DREW A. DUNN**  
**SUPERVISORY PATENT EXAMINER**